

CITY OF WILLMAR

**PLANNING COMMISSION MEETING
7:00 P.M. ON WEDNESDAY, OCTOBER 16, 2019
CONFERENCE ROOM #1
CITY OFFICE BUILDING**

Chair: Steve Gardner

Vice Chair: Rolf Standfuss

Members: Jeffery Kimpling, Cletus Frank, Jonathan Marchand, Terry Sieck, Dr. Jerry Kjergaard, Christina Nelson, and Rhonda Otteson.

AGENDA

1. Meeting Called to Order
2. Minutes of September 4, 2019 meeting
3. Papa Murphy's Drive-Thru Plan Review
4. Overlay District Discussion
5. Comprehensive Plan Table of Contents Discussion
6. Adjourn

**WILLMAR PLANNING COMMISSION
CITY OF WILLMAR, MN
WEDNESDAY, SEPTEMBER 4, 2019**

MINUTES

1. The Willmar Planning Commission met on Wednesday, September 4, 2019, at 7:00 p.m. at the Willmar City Offices Conference Room #1.

Members Present: Steve Gardner, Terry Sieck, Jeff Kimpling, Cletus Frank, Jonathan Marchand, Christina Nelson, Rolf Standfuss, and Dr. Jerry Kjergaard

Members Absent: Rhonda Otteson

Others Present: Sarah Swedburg – Planner, Daniel Tempel – Glacial Ridge Realty

2. MINUTES: Minutes from the August 7th and 21st meetings were approved as presented.

3. TEMPEL REZONE AG TO GB – FILE NO. 19-04: Mr. Kimpling made a motion, seconded by Mr. Standfuss to take the Tempel Rezone item from the table. Staff reminded the commission of this rezone of property from AG (Agriculture) to GB (General Business) to allow the development of office/storage space for a new painting and powerwashing company in town on property described as follows: All that portion of the West Half of the Northwest Quarter of the Northeast Quarter of Section 12, Township 119 North, Range 35 West of the Fifth Principal Meridian, Kandiyohi County Minnesota lying Northwesterly of a line drawn parallel with and distant 50 feet Northwesterly of, as measured at right angles to, Burlington Northern Railroad Company's (formerly Great Northern Railway Company's) Main Track centerline, as now located and constructed upon over and across said West Half of the Northwest Quarter of the Northeast Quarter. This parcel of land has been discussed by Planning Commission in past meetings towards the end of 2018 and beginning of 2019 due to interest by other companies. Public water and electric utilities are available to this site. However, the nearest public sanitary sewer main is at the intersection of Civic Center Drive and Lakeland Drive NE, about ½ mile west of the property of interest. Preliminary drawings from the City Engineering Department indicate this line could be extended via gravity, but it would be an extension solely for this parcel, as this 2,700 foot extension would not serve the acreage south of the line due to elevations.

As directed during the August 21, 2019 Planning Commission meeting, staff also presented two draft resolution options: a resolution recommending approval of the rezone request and a resolution recommending denial of the rezone request to City Council.

The Planning Commission reviewed and discussed staff comments (see Attachment A). Mr. Frank voiced concern about spot zoning, and the commission expressed the same concern. Staff reminded the Commission that the City Attorney has been briefed with this request and expressed that there is appropriate backing for either decision the Planning Commission may make – approval or denial of the rezone.

Dr. Kjergaard requested clarification of the decision before the Commission. Staff summarized both options based upon the City's 2009 Comprehensive Land Use Plan: approval of this rezone aligns with the Comprehensive Plan by supporting expansion of and new business in town and supports the creation of a commercial node near the Hwy 71 Bypass/Civic Center Drive NE

interchange, while denial of this rezone aligns with the Comprehensive Plan by encouraging development to occur where utilities are available and in places that are contiguous to existing development, providing for cost effective development and smart-growth land use practices.

Mr. Kimpling inquired about connection to sewer and discussed the inability to know exactly what developments will occur in this area in the future. While this parcel may be able to connect to a sewer system South and West of this property in Lakeland Drive NE, that possibility also requires the cooperation between property owners for access to those extensions.

Mr. Frank asked Daniel Tempel if the area restricted due to contamination was visibly marked out on the property. There is a formal legal description that has been created for the area that restrictive covenants exist due to the nature of the contamination, but it is not physically marked on the site. Mr. Sieck reiterated concern of the precedent that approving this rezone would create.

Mr. Tempel reminded the Planning Commission that the Zoning Ordinance provides for alternatives when parcels are unable to be serviced by Sanitary Sewer lines. He also expressed that this rezoning would allow the establishment of a new business in town that fills a need for this type of professional work that has seen a number of retirements recently. Mr. Tempel also presented a letter that was written on April 11, 2008 following the Planning Commission meeting on April 9, 2008 addressing the rezoning of the parcel in the future when a project came forward. This parcel was annexed into the municipal boundary in 2007.

Mr. Frank expressed desire for additional conditions to be a part of the rezoning approval should the City Council choose to approve this rezone. Staff ensured the Commission that the Council would be made aware of these recommendations.

Chairman Gardner requested a consensus from the commissioners and expressed his opinion that the Commission should recommend denial to the City Council.

Dr. Kjergaard made a motion, seconded by Mr. Kimpling to adopt a resolution adopting the proposed findings of fact and recommending denial of rezoning certain property owned by Kandiyohi Power Cooperative from AG to GB.

The Planning Commission requested staff include the additional letter presented by Mr. Tempel at the meeting in the packet for City Council's review, as well as minutes from the April 9, 2008 Planning Commission meeting that discussed the initial rezoning of land from Industrial to Agriculture.

The motion carried unanimously.

4. WYE PROJECT BNSF CONVEYANCE: Staff presented the first land sale that will be closing soon related to the Wye Project. The City's portion of land is being conveyed to BNSF for railroad right-of-way for the planned railway that will run North/South, West of the Industrial park. This conveyance is one of the City's major contributions to the project.

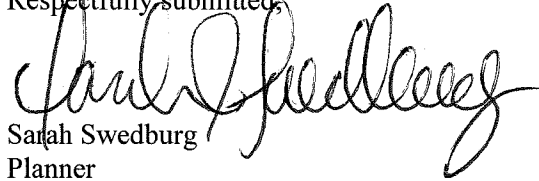
Commissioners inquired about future crossing compliance with BNSF, should the industrial park be facing expansion West of the rail line. Staff mentioned key locations that conduit will be placed underneath the railroad for anticipation of utility expansion in the future.

Mr. Marchand made a motion, seconded by Mr. Sieck to recommend approval of the land conveyance to the City Council.

The motion carried unanimously.

There being no further business to come before the Commission, the meeting adjourned at 8:35 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sarah Swedburg', written over the typed name.

Sarah Swedburg
Planner

PLANNING COMMISSION – SEPTEMBER 4, 2019

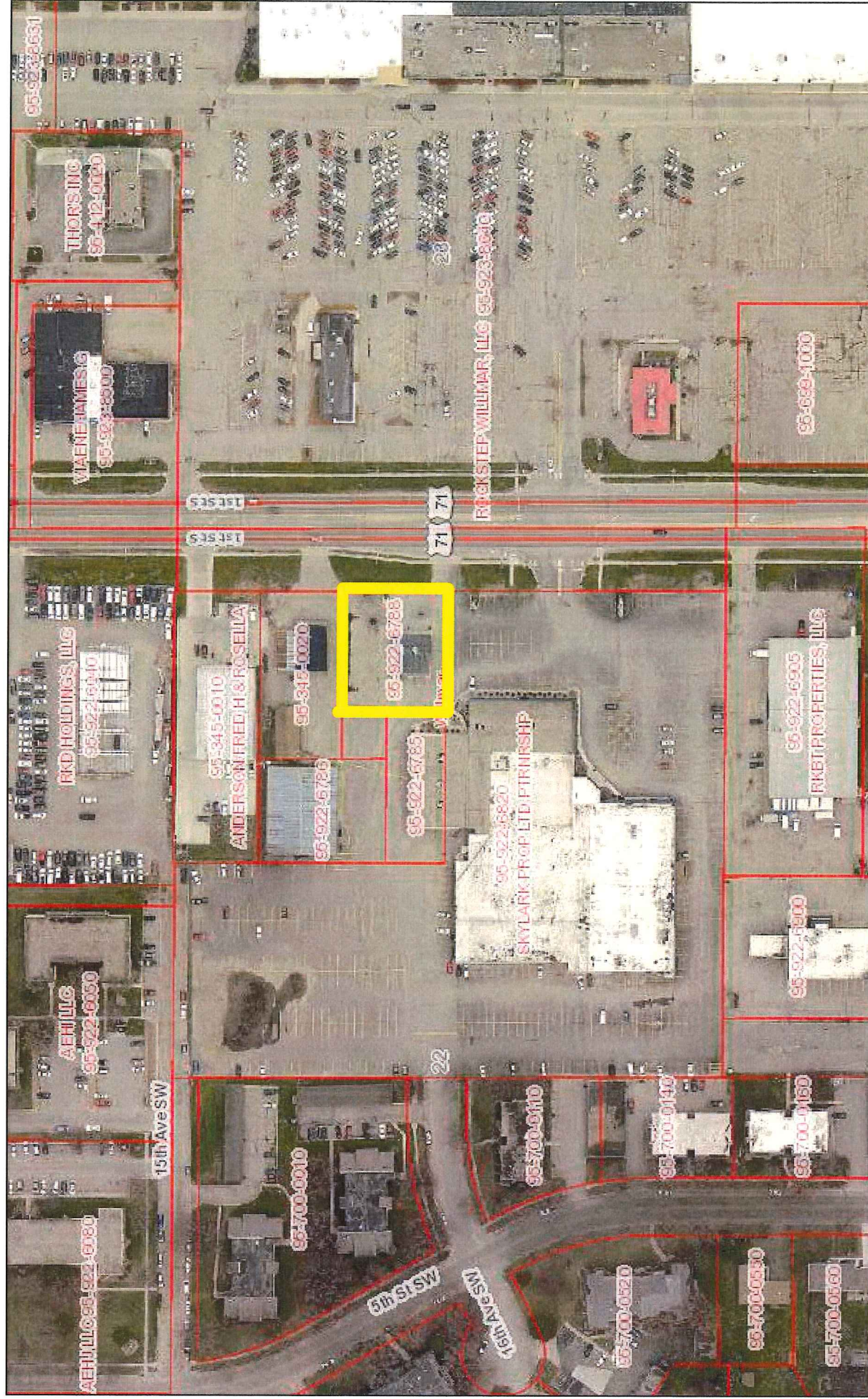
STAFF COMMENTS

1. TEMPEL REZONE AG TO GB – FILE NO. 19-04:

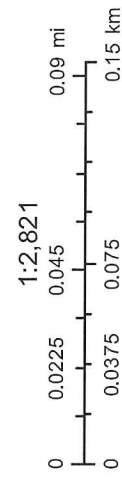
- This property owner-initiated request is to rezone land from Ag (Agriculture) to GB (General Business) on property described as: All that portion of the West Half of the Northwest Quarter of the Northeast Quarter of Section 12, Township 119 North, Range 35 West of the Fifth Principal Meridian, Kandiyohi County Minnesota lying Northwesterly of a line drawn parallel with and distant 50 feet Northwesterly of, as measured at right angles to, Burlington Northern Railroad Company's (formerly Great Northern Railway Company's) Main Track centerline, as now located and constructed upon over and across said West Half of the Northwest Quarter of the Northeast Quarter.
- The requested rezone is to allow office/storage use for a new painting and powerwashing company in Willmar, with the potential for mini-storage in the future?
- The surrounding properties are Agriculture to the East, West, and South and Technology to the North.
- A General Business zoning would allow this use outright. A Limited Business zone would allow this use with Plan Review approval from Planning Commission.
- The Comprehensive Land Use Plan envisions the future land use of this area to be residential. However, it is in close proximity to the Hwy 71 Bypass, and there are commercial nodes near the other bypass intersections in the City.
- The Comprehensive Land Use Plan discusses encouragement of orderly expansion of development and public utilities contiguous to existing development, providing for cost effective development and smart-growth land use practices.
- Public water and electric are available to this site. However, the nearest public Sanitary Sewer line is at the intersection of Civic Center Drive and Lakeland Drive. An extension of this line would be able to be made without a lift station, though there would be frost concern at one point in the line. This extension would only service the parcel of interest, as elevations would prohibit this extension from serving the 60 acre parcel to the West. The 60 acre parcel could also be serviced via gravity, but would flow South and West towards Lakeland Drive.

RECOMMENDATION: Review two draft resolutions for the requested rezone, and decide which the Commission would like to forward to City Council for introduction and public hearing.

Proposed Papa Murphy's Relocation



October 11, 2019



40'

Kitchen/Office

Pick-Up Window

Location is approximate

45'

Lobby

Front Door








Location is approximate

Papa Murphy's Store Layout



Untitled Map

Write a description for your map.

- Legend
-  Apres Soleil Tanning Studio
 -  Feature 1
 -  Lake Region Insurance
 -  Pizza Hut
 -  The UPS Store - Willmar
 -  Thrifty White Pharmacy (Willmar)
 -  Willmar Hearing Aid Center Inc

Skylark Mall

Pickup Window

Trash

First St. S

100

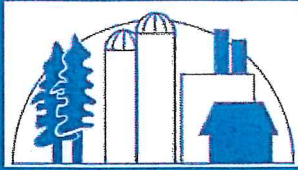


OVERLAY ZONES

Basics — An overlay zone is a zoning district which is applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district. Communities often use overlay zones to protect special features such as historic buildings, wetlands, steep slopes, and waterfronts. Overlay zones can also be used to promote specific development projects, such as mixed-used developments, waterfront developments, housing along transit corridors, or affordable housing.

Historical and Legal Implications — As with traditional zoning, uses that can be justified as contributing to the health, safety, and welfare of the population are generally allowed to be regulated via overlay zoning. Common regulations include those for historic districts, natural resource protection, and economic development, though local governments are given broad authority to determine what regulation is in their community's best interest. As with zoning, however, communities must be careful not to violate the "uniformity clause" of the Standard State Zoning Enabling Act by ensuring that all similar properties are treated similarly. For further court opinions on the legality of overlay zoning, see *Jachimek v. Superior Court*, 169 Ariz. 317 (Ariz. 1991) and *A- S- P Associates v. City of Raleigh*, 258 S.E.2d 444 (N.C. 1979).

Discussion — Overlay zones have the potential to be very effective governmental regulatory tools. Since they tailor regulations to specific properties and districts to meet specific community goals, they can be more politically feasible to implement and can help communities meet stated goals or address specific inequities. On the other hand, they can create inefficiencies and inequities by applying regulations and restrictions to some properties and not others. Moreover, additional regulations may increase time and expense both for developers and for the public bodies involved in the development approval process.



Planning Implementation Tools

Overlay Zoning



Center for Land Use Education

www.uwsp.edu/cnr/landcenter/

November 2005

TOOL DESCRIPTION

Overlay zoning is a regulatory tool that creates a special zoning district, placed over an existing base zone(s), which identifies special provisions in addition to those in the underlying base zone. (see Figure 1). The overlay district can share common boundaries with the base zone or cut across base zone boundaries. Regulations or incentives are attached to the overlay district to protect a specific resource or guide development within a special area.

COMMON USES

Natural Resource Protection

Overlay districts can manage development in or near environmentally sensitive areas, such as groundwater recharge areas (e.g. to ensure water quality and quantity), special habitat (e.g. species or feature protection) or floodplains (e.g. prevent flood damage). Common requirements may include building setbacks, density standards, lot sizes, impervious surface reduction and vegetation requirements. Structure requirements could include building floor height minimums and flood-proofing to high water level.

Development Guidance

Overlay zones may also be applied to protect historical areas or encourage or discourage specific types of development. Land within the historic overlay district may be subject to requirements that protect the historical nature of the area (e.g. materials, façade design, or color). A community might use incentives along a transit corridor to encourage higher development densities, target uses or control appearance.

Potential Uses

- ◆ Create a walkable community, connect pathways
- ◆ Preserve/enhance a special district
- ◆ Encourage economic development
- ◆ Preserve/enhance rural character
- ◆ Protect quality of surface water
- ◆ Protect groundwater quality and quantity
- ◆ Manage stormwater
- ◆ Preserve forestry integrity
- ◆ Preserve sensitive area/wildlife habitat
- ◆ Protect aesthetics of the natural environment
- ◆ Preserve farmlands

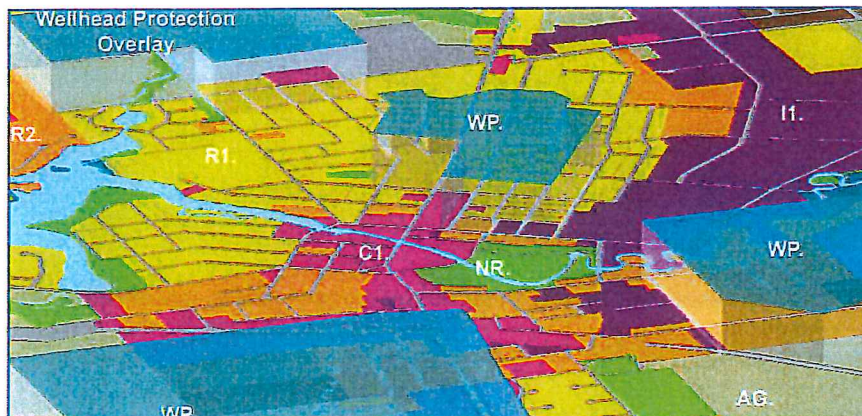


Figure 1. A wellhead protection overlay has special provisions in addition to the requirements of the base municipal zones in order to protect nearby wells from contaminants

IMPLEMENTATION

CREATION

Any governmental unit with the power to create zoning districts can create an overlay district. There are three basic steps to creating an overlay district:

1. **Define the purpose of the district.** The district should have a clearly defined purpose e.g. to protect drinking water, preserve historical character, minimize erosion from storm water runoff, etc.
2. **Identify the areas that make up the district.** Mapping district boundaries will depend on the natural or cultural resources and the geographic areas that relate to achieving the purpose of the district. For example, if the purpose of the zone is to protect groundwater, important groundwater recharge areas and areas prone to pollution, such as fractured bedrock or areas with a high groundwater table should be mapped..
3. **Develop specific rules that apply to the identified district.** In a groundwater recharge district for example, provisions may restrict development or require development guidelines that capture and filter water runoff..

“When reviewing a project of any size in the overlay zone, it is important that the development be consistent not only with the goals and objectives of the overlay but with the long-term goals and strategies of the overall municipal comprehensive plan.”

It is critical that the zoning provisions offer clear guidance to both property owners and the governing body charged with approving proposals. Zoning requirements must be applied equally over all properties within the district. The ordinance not only must comply with any state and federal regulations, but must also be consistent with the goals, objectives, and policies of the municipality’s comprehensive plan.

It is important that the local governing body involve the public to clarify issues and explain the reasons behind mapping district boundaries. An educational program targeting developers and affected property owners will help increase awareness and compliance with the new requirements.

The procedures for adopting an overlay district are the same as for adopting a zoning or rezoning provision. The overlay provisions as well as changes to the zoning map must be approved by the local governing body for adoption.

ADMINISTRATION

Consideration of the overlay district standards can be incorporated into the existing subdivision or site plan review process for large-scale residential developments and most commercial development. Because smaller-scale development will often require only a building permit, it may be necessary to include provisions for a streamlined form of site plan review for these projects. This review could be administered by a municipal board or commission or by a zoning administrator or building inspector. Long-term compliance can be addressed in the existing procedures for current zoning compliance.

Report Card: Overlay Zoning

Cost	Money or staff resources required to implement tool.
A	Assuming a zoning ordinance currently exists, the cost to create the district should be similar to the potential cost to modify the existing ordinance. Little if any additional staff would be required to administer the new zoning provisions.
Public Acceptance	The public's positive or negative perception of the tool.
B	Zoning provisions for the overlay zone in addition to base zoning rules may be confusing to the public without some education.
Political Acceptance	Politician's willingness to implement tool.
B	Political willingness will depend upon the provisions within the ordinance.
Equity	Fairness to stakeholders regarding who incurs costs and consequences.
B	The tool can be perceived as fair if all properties within the zone are treated equally and the criteria for delineating the zone are straightforward and justified.
Administration	Level of complexity to manage, maintain, enforce, and monitor the tool.
B	An overlay district can be integrated into the administration of the existing zoning ordinance. An additional process may need to be established for small projects needing only a building permit. Reviewer training will be needed. A well-written ordinance and clear boundaries will simplify compliance.
Scale	The geographic scale at which tool is best implemented.
Municipal to Regional	The tool is most often implemented at a municipal or county scale. Wisconsin's shoreland zoning program is an example of statewide overlay zoning that is administered locally.

GRADING EXPLANATION

A - Excellent

B - Above Average

C - Average

D - Below Average

F - Failing

Comments and grades were derived from a Delphi process conducted with practicing planners and educators in 2005

WISCONSIN EXAMPLES

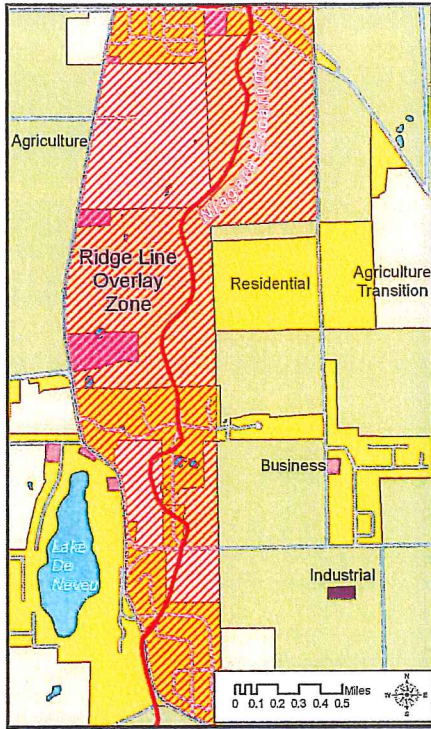


Figure 2. Town of Empire overlay zoning example

Town of Empire, Fond du Lac County

The Town of Empire, Fond du Lac County WI has developed a Critical Areas Overlay (CAO) District that minimizes development in areas prone to unwanted soil erosion and groundwater contamination, and on sites difficult to develop in a safe manner. It also preserves unique and valuable geologic and other natural resource features such as the Niagara Escarpment and woodland. The ordinance specifies a ridgeline buffer, lists prohibited uses, states grading restrictions for roads, requires vegetative screening of buildings on the ridge, preserves existing vegetation and significant rock outcroppings and limits impervious surface.

City of Green Bay

The City of Green Bay WI has an Urban Parking Overlay District as part of its downtown redevelopment effort to encourage building reuse and infill. It allows structures to share parking areas and receive parking credit for available stalls within a given distance from a building..

City of Oshkosh

The City of Oshkosh WI has a Highway 41 Corridor Overlay which applies to lots abutting frontage roads adjacent to the highway. It regulates building architecture, orientation and setbacks as well as landscaping, signage, utilities, waste storage and driveways.

FOR MORE INFORMATION

Gravin, Elizabeth (Summer 2001). "Making Use of Overlay Zones". Planning Commissioners Journal, Issue 43, 16-17.

Hoch, Charles J., Dalton, Linda S., & So Frank S. – editors, (2000). The Practice of Local Government Planning, 3rd edition. International City/County Management Association, Washington, D.C., pp 359-360.

Pace University Land Use Law Center, White Plains, NY. Overlay Zoning, SERIES III: Innovative Tools and Techniques, Issue Number 2. Available at <http://www.law.pace.edu/landuse/boverlay.html>

ACKNOWLEDGEMENTS

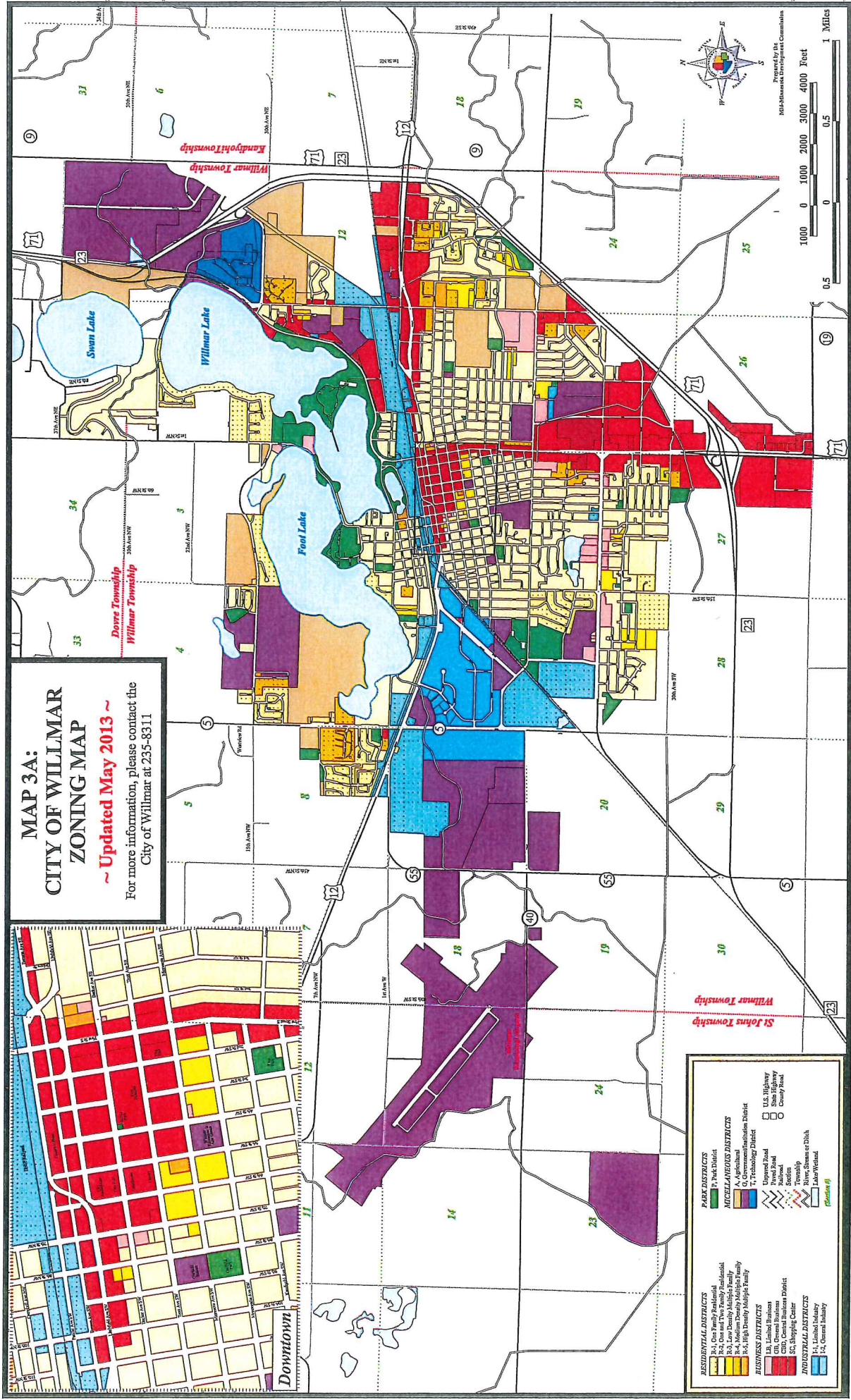
Document prepared by Douglas Miskowiak and Linda Stoll, 2006. CLUE gratefully acknowledges all external reviewers. Design and layout by Robert Newby.

Figure 1 and 2 developed by Douglas Miskowiak. Data for wellhead protection provided by Waupaca County Land Information Office and for the Town of Empire by East Central Wisconsin Regional Planning Commission.

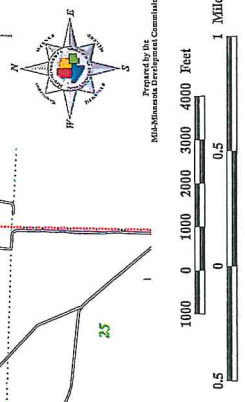
This document is part of CLUE's collaboration with the USDA, NRCS, GEM, and UWEX, entitled, "Partnership for Community Planning – Models for Land Use Education, Planning, and Management."



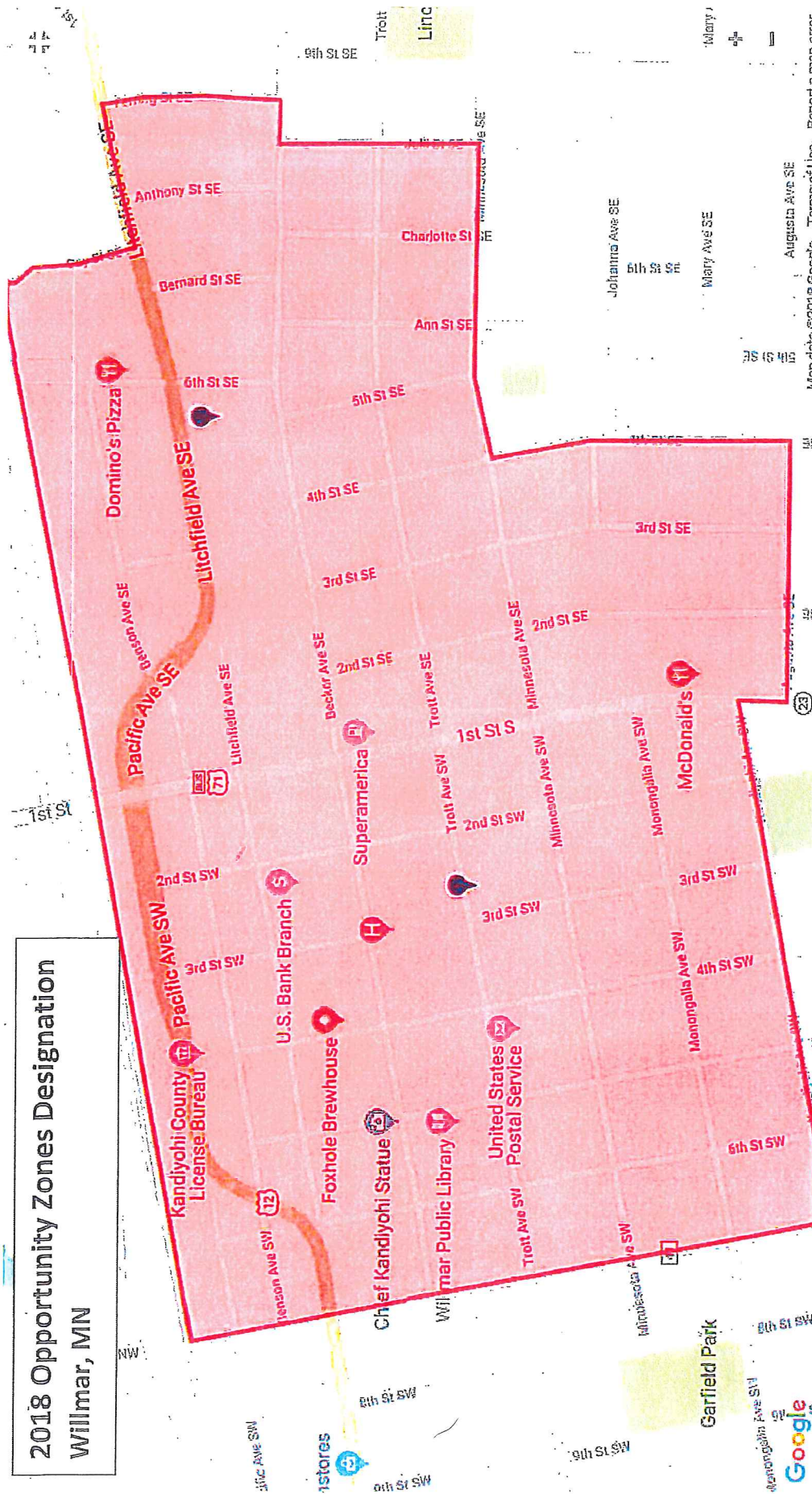
**MAP 3A:
CITY OF WILLMAR
ZONING MAP**
~ Updated May 2013 ~
For more information, please contact the
City of Willmar at 235-8311



- | | |
|-------------------------------------|------------------------------------|
| RESIDENTIAL DISTRICTS | PARK DISTRICTS |
| R-1, One-Family Residential | P, Park District |
| R-2, Two-Family Residential | |
| R-3, Medium Density Multiple-Family | MISCELLANEOUS DISTRICTS |
| R-4, High Density Multiple-Family | A, Agricultural |
| | G, Government/Institution District |
| BUSINESS DISTRICTS | T, Technology District |
| B-1, Limited Business | U, Urban |
| B-2, General Business District | U-1, Urban |
| B-3, Shopping Center | U-2, Urban |
| | U-3, Urban |
| INDUSTRIAL DISTRICTS | U-4, Urban |
| I-1, Limited Industry | U-5, Urban |
| I-2, General Industry | U-6, Urban |



2018 Opportunity Zones Designation Willmar, MN



Census Tract 780800i Kandiyohi County

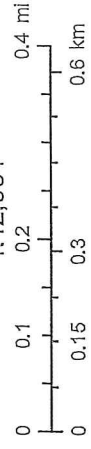
Population	2,064 (2010)
House Units	904
Race	Whites:83.1%, Hispanics:33.1%, Blacks:5.9%, Asians:1%, Others:10%
Population Density:	4,797.05/sq mi
Median Household Income:	\$29,367
Median House Price:	\$90,800
Land Area:	0.43 sq mi

Opportunity Zone Zoning



May 9, 2019

1:12,654



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